

Representative Barb Byrum - NCOIL Alert -- U.S. Senate Committee Hearing on Life Settlements

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Subject: NCOIL Alert -- U.S. Senate Committee Hearing on Life Settlements

DATE: APRIL 29, 2009
TO: NCOIL LEGISLATORS
FROM: SUSAN NOLAN
 NCOIL EXECUTIVE DIRECTOR
RE: U.S. SENATE COMMITTEE HEARING ON LIFE SETTLEMENTS

The U.S. Senate Special Committee on Aging held a hearing this afternoon entitled "Betting on Death in the Life Settlement Market – What's at Stake for Seniors?" to investigate alleged abuses in—and existing regulation of—the life settlements market. Two panels of witnesses representing insurance and securities regulators and industry representatives participated in the hearing.

NCOIL offered to provide a legislative perspective during today's hearing. As we were not invited to testify, we submitted a letter ([available here](#)) outlining consumer protections in the NCOIL Life Settlements Model Act for the hearing record.

You can watch the entire hearing here: <http://aging.senate.gov/>

OPENING REMARKS

Opening comments by Chairman Herb Kohl (D-WI) and Ranking Member Mel Martinez (R-FL) contained consistent themes, including that questionable sales practices and regulatory loopholes exist in the marketplace and that consumers deserve full transparency and accountability in their life settlement transactions. Chairman Kohl said that the:

- IRS will soon issue regulations regarding the tax treatment of life settlements.
- SEC will review issues surrounding the registration of life settlement providers and brokers and the potential need for additional regulation.
- GAO will study the size and scope of the life settlement market.

WITNESSES

PANEL ONE

- Stephen Leimberg, CEO, Leimberg Information Services
- Mary Beth Senkewicz, on behalf of the Florida Office of Insurance Regulation
- Director Michael McRaith, Illinois Department of Financial and Professional Regulation
- Commissioner Fred Joseph, Colorado Department of Regulatory Agencies, on behalf of the North American Securities Administrators Association (NASAA)

PANEL TWO

- James Avery, on behalf of the American Council of Life Insurers (ACLI)
- Scott Peden, Life Partners Inc.
- Michael Freedman, Coventry

TESTIMONY

PANEL ONE

Regulator representatives and an academic on the first panel, among other things, generally:

- Described State regulatory actions against certain life settlement companies.
- Emphasized the need for enhanced regulation, including consumer disclosures and market transparency.

- Recognized the benefits of legitimate life settlements while calling for stronger action to address stranger-originated life insurance (STOLI) schemes.

PANEL TWO

Insurance representatives on the second panel, among other things, generally:

- Described the efforts of life insurers and settlement companies to prevent STOLI.
- Challenged the state lobbying tactics of the opposing side of the debate (insurers v. life settlement providers).
- Supported state and/or federal efforts to regulate life settlements.

QUESTION-AND-ANSWER

Noteworthy statements from the Q & A sessions follow.

- **Mr. Freedman** and **Mr. Avery** applauded the NCOIL Model Act as a means to regulate the industry and prevent and/or penalize STOLI.
- **Ms. Senkewicz**, responding to a question regarding federal regulation, suggested that Congress could set a deadline for states to uniformly enact an NAIC *Viatical Settlements Model Act*, and pursue federal legislation if all states do not comply.
- **Mr. Leimberg** called state regulation a “patchwork” and said that there may be a role for federal regulation. **Mr. Peden** also advocated for federal life settlements regulation.
- **Commissioner Joseph** said that he was not willing to say that states could not handle life settlements regulation.
- **Senators Kohl and Martinez** expressed an interest in continuing the Committee’s investigation of the business of life settlements.

Please contact Mike Humphreys at mhumphreys@ncoil.org or at 202-220-3014 with any questions.